

## REMARKS/ARGUMENTS

Claims 1-24 are pending in the application. Claims 1, 9, 13, 17, and 21 have been amended. Reconsideration is respectfully requested. Applicants submit that the pending claims 1-24 are patentable over the art of record and allowance is respectfully requested of claims 1-24.

Applicants would like to thank Examiner Portka for holding a telephone interview with their representative, Janaki K. Davda, on June 19, 2005, at 1:00 (EST). Proposed claim amendments to claim 1 and the cited Allen patent were discussed. Applicants' representative directed the Examiner's attention to pages 7 and 8 of the Specification and described the storage group preference statement as providing a list of eligible storage groups and the order in which they are to be used. Applicants' representative also directed the Examiner's attention to the Allen patent, Col. 8, starting at line 4, and described that the Allen patent creates a chain of available data storage systems. No agreement was reached.

Claims 13 and 21 are objected to because of informalities. Claims 13 and 21 have been amended to place them in better form and to overcome the objections.

Claims 17-24 are rejected under 35 U.S.C. 101. Applicants respectfully traverse, but, to expedite prosecution, Applicants have amended claims 17-21 and 24 to overcome the rejection.

Claims 1-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Allen (U.S. Patent No. 5,491,810). Applicants respectfully traverse.

Claims 1, 9, and 17 describe associating a cluster with a plurality of storage groups, designating a storage group preference order for data sets associated with the cluster, wherein the storage group preference order is identified with a storage group preference statement that designates a list of eligible storage groups for the data sets and the order in which the eligible storage groups are to be used (e.g., Specification, page 8, paragraphs 23-24; page 9, paragraphs 26-28), and, when a request to store a data set for the cluster is received, selecting one of the plurality of storage groups using the storage group preference order.

For example, implementations of the invention provide a new storage group preference statement, such as: StorageGroup = (Finance, Human Resources, Production) (e.g., Specification, page 7, paragraph 21). In this example, the StorageGroup statement designates Finance, Human Resources, and Production as a list of eligible storage groups for storage of a Finance Data Set (e.g., Specification, page 8, paragraph 23).

On the other hand, the Allen patent describes that each attempted storage of a data set will result in an analysis of all available storage systems and the creation of a linked chain of available data storage systems representing an ordered sequence of preferred data storage systems (Abstract). The process of creating a preference chain of candidate storage devices includes a determination of whether or not a storage device a particular storage device lacks a required characteristic (Col. 8, lines 4-35).

With the use of the claimed storage group preference statement that designates a list of eligible storage groups for the data sets and the order in which the eligible storage groups are to be used, the need for creating the chain of candidate storage devices is avoided.

Thus, claims 1, 9, and 17 are not anticipated by the Allen patent.

Dependent claims 2-8, 10-16, and 18-24 incorporate the language of independent claims 1, 9, and 17 and add additional novel elements. Therefore, dependent claims 2-8, 10-16, and 18-24 are not anticipated by the Allen patent for at least the same reasons as were discussed with respect to claims 1, 9, and 17.

### Conclusion

For all the above reasons, Applicants submit that the pending claims 1-24 are patentable over the art of record. Applicants have not added any claims. Nonetheless, should any additional fees be required, please charge Deposit Account No. 09-0466.

The attorney of record invites the Examiner to contact her at (310) 553-7973 if the Examiner believes such contact would advance the prosecution of the case.

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